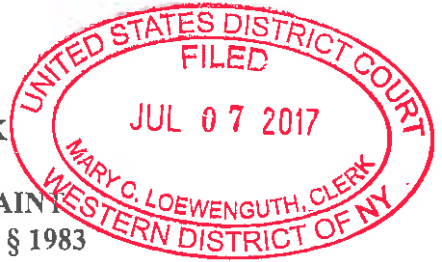


Revised 03/06 WDNV

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORKFORM TO BE USED IN FILING A COMPLAINT  
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983  
(Prisoner Complaint Form)

All material filed in this Court is now available via the **INTERNET**. See **Pro Se Privacy Notice** for further information.

1. CAPTION OF ACTION**17 CV 6448 EAW**

**A. Full Name And Prisoner Number of Plaintiff:** **NOTE:** *If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed Authorization or the only plaintiff to be considered will be the plaintiff who filed an application and Authorization.*

1. Wilbert Jackson, 116B2920

2. \_\_\_\_\_

-VS-

**B. Full Name(s) of Defendant(s)** **NOTE:** *Pursuant to Fed.R. Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. If you have more than six defendants, you may continue this section on another sheet of paper if you indicate below that you have done so.*

1. City of Rochester 4. Lt. DiPrimo (Rochester Police Lieutenant)2. Louis Mastrangelo (Rochester Police) 5. \_\_\_\_\_3. S. Drayton (Rochester Police Officer) 6. \_\_\_\_\_2. STATEMENT OF JURISDICTION

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201.

3. PARTIES TO THIS ACTION

**PLAINTIFF'S INFORMATION** **NOTE:** *To list additional plaintiffs, use this format on another sheet of paper.*

Name and Prisoner Number of Plaintiff: Wilbert Jackson, 116B2920Present Place of Confinement & Address: Auburn Correctional Facility, P.O. Box 618,  
Auburn NY, 13024

Name and Prisoner Number of Plaintiff: \_\_\_\_\_

Present Place of Confinement &amp; Address: \_\_\_\_\_

**DEFENDANT'S INFORMATION NOTE:** To provide information about more defendants than there is room for here, use this format on another sheet of paper.

Name of Defendant: City of Rochester

(If applicable) Official Position of Defendant: \_\_\_\_\_

(If applicable) Defendant is Sued in \_\_\_\_\_ Individual and/or \_\_\_\_\_ Official Capacity

Address of Defendant: 130 S. Plymouth Ave, Rochester NY, 14614

Name of Defendant: Louis Mastrangelo

(If applicable) Official Position of Defendant: Rochester Police Officer

(If applicable) Defendant is Sued in \_\_\_\_\_ Individual and/or \_\_\_\_\_ Official Capacity

Address of Defendant: 130 S. Plymouth Ave, Rochester NY, 14614

Name of Defendant: S. Drayton

(If applicable) Official Position of Defendant: Rochester Police Officer

(If applicable) Defendant is Sued in \_\_\_\_\_ Individual and/or \_\_\_\_\_ Official Capacity

Address of Defendant: 130 S. Plymouth Ave, Rochester NY, 14614

#### 4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

- A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?  
Yes \_\_\_\_\_ No X

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): \_\_\_\_\_

Defendant(s): \_\_\_\_\_

2. Court (if federal court, name the district; if state court, name the county): \_\_\_\_\_

3. Docket or Index Number: \_\_\_\_\_

4. Name of Judge to whom case was assigned: \_\_\_\_\_

5. The approximate date the action was filed: \_\_\_\_\_

6. What was the disposition of the case?

Is it still pending? Yes \_\_\_\_\_ No \_\_\_\_\_

If not, give the approximate date it was resolved. \_\_\_\_\_

Disposition (check the statements which apply):

\_\_\_\_\_ Dismissed (check the box which indicates why it was dismissed):

\_\_\_\_\_ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

\_\_\_\_\_ By court for failure to exhaust administrative remedies;

\_\_\_\_\_ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

\_\_\_\_\_ By court due to your voluntary withdrawal of claim;

\_\_\_\_\_ Judgment upon motion or after trial entered for

\_\_\_\_\_ plaintiff

\_\_\_\_\_ defendant.

**B.** Have you begun **any other lawsuits in federal court which relate to your imprisonment?**

Yes \_\_\_\_\_ No X

If Yes, complete the next section. NOTE: *If you have brought more than one other lawsuit dealing with your imprisonment, use this same format to describe the other action(s) on another sheet of paper.*

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): \_\_\_\_\_

Defendant(s): \_\_\_\_\_

2. District Court: \_\_\_\_\_

3. Docket Number: \_\_\_\_\_

4. Name of District or Magistrate Judge to whom case was assigned: \_\_\_\_\_

5. The approximate date the action was filed: \_\_\_\_\_

6. What was the disposition of the case?

Is it still pending? Yes \_\_\_\_\_ No \_\_\_\_\_

If not, give the approximate date it was resolved. \_\_\_\_\_

Disposition (check the statements which apply):

☐ Dismissed (check the box which indicates why it was dismissed):

- ☐ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
- ☐ By court for failure to exhaust administrative remedies;
- ☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
- ☐ By court due to your voluntary withdrawal of claim;

☐ Judgment upon motion or after trial entered for

- ☐ plaintiff
- ☐ defendant.

### **5. STATEMENT OF CLAIM**

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. § 1983. (This list does not include all possible claims.)

- |                    |                        |                               |
|--------------------|------------------------|-------------------------------|
| • Religion         | • Access to the Courts | • Search & Seizure            |
| • Free Speech      | • False Arrest         | • Malicious Prosecution       |
| • Due Process      | • Excessive Force      | • Denial of Medical Treatment |
| • Equal Protection | • Failure to Protect   | • Right to Counsel            |

**Please note that** it is not enough to just list the ground(s) for your action. You **must** include a statement of the facts which you believe support each of your claims. In other words, tell the story of what happened to you but do not use legal jargon.

**Fed.R.Civ.P. 8(a)** states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995). **Fed.R.Civ.P. 10(b)** states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

### **Exhaustion of Administrative Remedies**

Note that according to 42 U.S.C. § 1997e(a), "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prison er confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

You must provide information about the extent of your efforts to grieve, appeal, or otherwise exhaust your administrative remedies, and you must attach copies of any decisions or other documents which indicate that you have exhausted your remedies for each claim you assert in this action.

**A. FIRST CLAIM:** On (date of the incident) 1-3-16

defendant (give the name and position held of each defendant involved in this incident) Rochester Police Officer, Louis Mastrangelo

did the following to me (briefly state what each defendant named above did): conducted a "pat frisk" on me outside in the street in broad day light. He pulled the front waist band of my pants and boxers out so that my groin area was exposed and then forcibly reached down in my pants and retrieved a sandwich bag yanking my penis in the process, saying "I got you by the balls now Jackson, how do you like it"?

The constitutional basis for this claim under 42 U.S.C. § 1983 is: 4<sup>th</sup> amendment rights

The relief I am seeking for this claim is (briefly state the relief sought): money in the amount of \$5,000,000 (five million dollars and zero cents)

**Exhaustion of Your Administrative Remedies for this Claim:**

Did you grieve or appeal this claim? Yes ☒ No If yes, what was the result? was not a prison incident

Did you appeal that decision? Yes ☒ No If yes, what was the result? \_\_\_\_\_

*Attach copies of any documents that indicate that you have exhausted this claim.*

If you did not exhaust your administrative remedies, state why you did not do so: was not a prison incident

**A. SECOND CLAIM:** On (date of the incident) 1-3-16

defendant (give the name and position held of each defendant involved in this incident) Rochester Police Officer, S. Drayton and Rochester Police Lieutenant, Lt. DiPrimo

did the following to me (briefly state what each defendant named above did): stood and watched while their fellow officer (Louis Mastrangelo) illegally searched my person by manipulating the waistband of my pants and boxers and reaching inside my pants with unnecessary force grabbing a sandwich bag and YANKING my penis while making sexual comments toward me. These officers never intervened or made an attempt to stop Officer Louis Mastrangelo or acknowledge that he was doing anything wrong while violating my rights.

The constitutional basis for this claim under 42 U.S.C. § 1983 is: 14<sup>th</sup> amendment right to equal protection of the law when my rights were being violated by an officer.

The relief I am seeking for this claim is (briefly state the relief sought): \$5,000,000 (five million dollars)

**Exhaustion of Your Administrative Remedies for this Claim:**

Did you grieve or appeal this claim? \_\_\_\_\_ Yes X No If yes, what was the result? \_\_\_\_\_

Did you appeal that decision? \_\_\_\_\_ Yes \_\_\_\_\_ No If yes, what was the result? \_\_\_\_\_

*Attach copies of any documents that indicate that you have exhausted this claim.*

If you did not exhaust your administrative remedies, state why you did not do so: was not a prison incident

If you have additional claims, use the above format and set them out on additional sheets of paper.

**6. RELIEF SOUGHT**

*Summarize the relief requested by you in each statement of claim above.*

1st claim: \$5,000,000 (five million dollars)  
 2nd claim: \$5,000,000 (five million dollars)  
 total Amount: \$10,000,000 (ten million dollars)

Do you want a jury trial? Yes X No \_\_\_\_\_

**I declare under penalty of perjury that the foregoing is true and correct.**

Executed on 5-31-17  
(date)

**NOTE:** *Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.*

W-J  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature(s) of Plaintiff(s)

## AFFIDAVIT OF SERVICE

STATE OF NEW YORK     )  
  )ss.:  
COUNTY OF Cayuga     )

I, Wilbert Jackson, being duly sworn deposes and says that: on the below indicated date of notarization, I served a true copy of: Section 1983 of Title 42 of the United States Code (§1983) Civil Rights Complaint

on the following parties:

United States District Court Clerk  
2120 U.S Court house  
100 State Street  
Rochester, New York 14614-1387

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~

by placing said documents in a properly addressed envelope with postage prepaid and placing said envelope in the prison mailbox located in the Auburn Correctional Facility.

Dated: 6-12, 2017

Respectfully Submitted,

Wilbert JACKSON  
WR-J

Sworn to before me on this

12<sup>th</sup> day of June, 2017

Michael C. Polcovich  
NOTARY PUBLIC

**Michael C. Polcovich**  
**Notary Public State of New York**  
**No. 01PO6337956**  
**Qualified in Cayuga County**  
**Commission Expires 02/29/2020**



## CIVIL COVER SHEET

17 CV 6448 EAW

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Wilbert JACKSON, 16B2920

(b) County of Residence of First Listed Plaintiff

Monroe

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Wilbert JACKSON, 16B2920

Auburn Correctional Facility, P.O. Box 618 Auburn, NY 13024

## DEFENDANTS

City of Rochester, Louis Mastrangelo,

S. Drayton, Lt. D. Primo

County of Residence of First Listed Defendant

Monroe

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED

Attorneys (If Known)

JUL 07 2017

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

☐ 1 U.S. Government Plaintiff☒ 3 Federal Question (U.S. Government Not a Party)☐ 2 U.S. Government Defendant☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State

PTF DEF  
☐ 1 ☐ 1

Incorporated or Principal Place of Business in This State

PTF DEF  
☐ 4 ☐ 4

Citizen of Another State

☐ 2 ☐ 2

Incorporated and Principal Place of Business in Another State

☐ 5 ☐ 5

Citizen or Subject of a Foreign Country

☐ 3 ☐ 3

Foreign Nation

☐ 6 ☐ 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 424 Bankruptcy 11 USC 541	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 425 Bankruptcy 11 USC 542	<input type="checkbox"/> 440 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 426 Bankruptcy 11 USC 543	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 427 Bankruptcy 11 USC 544	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 428 Bankruptcy 11 USC 545	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 429 Bankruptcy 11 USC 546	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 700 Labor Standards Act	<input type="checkbox"/> 430 Bankruptcy 11 USC 547	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 710 Labor/Mgmt. Relations Act	<input type="checkbox"/> 431 Bankruptcy 11 USC 548	<input type="checkbox"/> 510 Selective Service
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 720 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 432 Bankruptcy 11 USC 549	<input type="checkbox"/> 520 Securities/Commodities/Exchange
<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 433 Bankruptcy 11 USC 550	<input type="checkbox"/> 530 Customer Challenge 12 USC 3410
	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 434 Bankruptcy 11 USC 551	<input type="checkbox"/> 540 Other Statutory Actions
		<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 435 Bankruptcy 11 USC 552	<input type="checkbox"/> 550 Agricultural Acts
		<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 436 Bankruptcy 11 USC 553	<input type="checkbox"/> 560 Economic Stabilization Act
			<input type="checkbox"/> 437 Bankruptcy 11 USC 554	<input type="checkbox"/> 570 Environmental Matters
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			<input type="checkbox"/> 439 Bankruptcy 11 USC 556	<input type="checkbox"/> 590 Freedom of Information Act
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